IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.722 OF 2006

Mrs. Sunitee Raj Mathur & Ors. .. Petitioners
Vs
The State of Maharashtra & anr .. Respondents

Mr S.V.Marwadi i/b Mr Rishi Bhuta, for the petitioners.
Mr Pradip Kumar Kapani, party-in-prson, for respondent no.2
Mrs M.H.Kantharia, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 23rd JUNE, 2006

P.C.:

1. Heard the learned counsel for the petitioners, learned APP for the respondent-State and Mr Pradip Kumar Kapani, party-in-person for respondent no.2.

2. This writ petition is arising from the order dated 16.2.2006 passed by the learned Addl.Sessions Judge, Greater Mumbai, in Revision Stamp No.495 of 2006 rejecting the revision application filed by the petitioners. The revisions were directed against the order dated 2.4.1997 of issue of process. It appears that the complaint was filed on 26.3.1997 and the process was issued on 2.4.1998. It further reveals that the discharge application was filed by the petitioners in 1998 and the same was rejected and thereafter the plea of the petitioners was also

recorded. Admittedly, the revision was filed when the case reached the stage of final arguments. It is against this backdrop, I am not inclined to interfere with the order passed by the Sessions Court.

3. Mr Marwadi, learned counsel for the petitioners, submitted that the petitioner nos 2 and 3 are old persons and they cannot be made to face trial at this age. In support of this contention he placed reliance upon the judgment of the Apex Court in Seeta Hemchandra Shashittal and anr Vs. State of Maharashtra and ors, (2001) 4 Supreme Court Cases 525. Insofar as the old age of the petitioners is concerned, it is clear that they have already faced the trial and what is left is the only arguments for which they need not go to the Court. It was then submitted that the petitioners are not in-charge of and responsible for the conduct of the business of the company and, therefore, they cannot be made to face the trial as accused in the present case. Reliance was placed upon the judgment of the Apex Court in S.M.S.Pharmaceuticals Ltd Vs Neeta Bhalla and anr, 2005(4) Mh.L.J. 731. Keeping in view the peculiar facts and circumstances of the case, in my opinion, both the judgments are of no avail to the petitioners. Considering that the case, which was filed in the year 1997, when reached the stage of final arguments, the

petitioners are seeking to quash the order of issue of process dated 2.4.1997 the Sessions Court has rightly rejected the revision. Looking to the peculiar facts and keeping in view the submissions of the learned counsel, I am satisfied that the following order shall meet the ends of justice.

(i) The trial Court is directed to decide the case as expeditiously as possible and preferably within a period of eight weeks from the date of receipt of this order. The trial Court shall not insist and expect the petitioners to remain present in the Court, unless their presence becomes indispensable. The petitioners are directed to file formal application seeking permanent exemption. If such an application is filed, the learned Magistrate shall pass an order granting them exemption till the disposal of the case keeping in view the judgment ofthis Court in Bhaskar Sen case. Parties are directed to co-operate disposal of the case within the time stipulated. The writ petition is accordingly dismissed.

(D.B.BHOSALE,J.)